



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

***CERTIFIED MAIL - RETURN RECEIPT REQUESTED***

**APR 28 2014**

CIL Development, Inc.  
Attn: Martin Legault, President/CEO  
157 Charter Oak Avenue, 3<sup>rd</sup> Floor  
Hartford, Connecticut 06106

Re: PCB Risk-Based Disposal Approval under 40 CFR § 761.61(c)  
70 Popieluszko Court  
Hartford, Connecticut

Dear Mr. Legault:

This is in response to the Notification<sup>1</sup> by CIL Development, Inc. ("CIL") for approval of a risk-based disposal plan to address polychlorinated biphenyl ("PCB")-contaminated building materials in the former Capewell Manufacturing Facility located at 70 Popieluszko Court ("the Site") in Hartford, Connecticut. The Site contains PCB-contaminated materials that exceed the allowable PCB levels under 40 CFR § 761.61(a) for unrestricted use.

In its Notification, CIL has proposed a plan under the risk-based disposal option at 40 CFR § 761.61(c) that includes the following:

- Removal and disposal of all debris and interior building materials (e.g., walls, piping, etc.);
- In-place management of PCBs at greater than (">") 1 part per million ("ppm") in the building concrete floors beneath a minimum 1-inch newly poured concrete floors. Certain concrete floor areas will be removed to a depth of one-half (½) inch prior to construction of the new concrete floors;
- Execution of a deed notice to document the permitted uses, restricted uses, and obligations and conditions which must be maintained to ensure that the PCBs and any other contaminants remaining at the Site pose no unreasonable risk to building users; and,

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<sup>1</sup> Information was submitted by Environmental Partners, LLC on behalf of CIL to support a PCB risk-based disposal approach for *PCB remediation waste* under 40 CFR § 761.61(c). Attachment 2 is the Administrative Record which provides a list of supporting information for the PCB risk-based disposal request. The Administrative Record will be referred to as the "Notification".

- Establishment of a Monitoring and Maintenance Plan ("MMP") for the new concrete floors and for indoor air.

Based on EPA's review, EPA has determined that the proposed plan is acceptable and that the PCBs remaining at the Site will create no unreasonable risk of injury to public health or the environment as the new concrete floors will prevent direct exposure to residual PCBs remaining in the existing concrete floors. EPA applies this reasonable risk standard in accordance with the PCB regulations at 40 CFR § 761.61(c), and the Toxic Substances Control Act, at 15 USC § 2605(e).

CIL may proceed with its project in accordance with 40 CFR § 761.61(c); its Notification; and, this Approval, subject to the conditions of Attachment 1. This Approval may be revoked, suspended and/or modified as described in Attachment 1, or if the EPA determines that implementation of this Approval may present an unreasonable risk of injury to health or the environment, or if there is a change in the proposed Site use.

Nothing in this Approval is intended or is to be construed to prejudice any right or remedy concerning PCBs or other federally-regulated contaminants at the Site otherwise available to the EPA under Section 6 of TSCA, 15 U.S.C. 2605, 40 CFR Part 761, or other provisions of federal law.

This Approval does not release CIL from any applicable requirements of federal, state or local law, including the requirements related to cleanup and disposal of PCBs or other contaminants on the property under the Connecticut Department of Energy and Environmental Protection ("CTDEEP") regulations.

As indicated in the Notification, CIL is proposing to provide written notice to future tenants of Site conditions in the form of an addendum to the tenant lease agreement. This Approval requires that a copy of this written notice be provided to EPA for review and comment (see Attachment 1, Condition 14).

Questions and correspondence regarding this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Mail Code: OSRR07-2  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527

EPA shall consider this project complete only when it has received documents evidencing construction of the physical controls (i.e., new concrete floors), adoption of the deed restriction, acceptable post-abatement indoor air PCB concentrations, and establishment of a long-term maintenance and monitoring plan. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,

A handwritten signature in black ink, appearing to read 'James T. Owens, III', with a stylized flourish at the end.

James T. Owens, III  
Director, Office of Site Remediation & Restoration

Attachment 1: Approval Conditions

Attachment 2: Administrative Record

cc: Paul Muniz, Environmental Partners  
Gary Trombly, CTDEEP  
Brian Toal, CTDPH  
File



## ATTACHMENT 1

**PCB RISK-BASED DISPOSAL APPROVAL CONDITIONS  
FORMER CAPEWELL MANUFACTURING BUILDING  
70 POPIELUSZKO COURT ("the Site")  
HARTFORD, CONNECTICUT**

### GENERAL CONDITIONS

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* identified in the Notification<sup>2</sup> and located at the Site.
  - a. In the event that CIL Development, Inc. ("CIL") identifies other PCB-contaminated wastes (i.e., PCBs not identified in the Notification) subject to cleanup and disposal under the PCB regulations, CIL will be required to notify EPA and to clean up the PCB-contaminated wastes in accordance with 40 CFR Part 761.
  - b. CIL may submit a separate plan to address the PCB contamination or may modify the Notification to incorporate cleanup of the PCBs under this Approval in accordance with Condition 24.
  - c. This Approval does not address cleanup and disposal of the PCB-contaminated soils with greater than (" $>$ ") 1 part per million ("ppm") located beneath the Site building. A separate plan to address cleanup of these PCB-contaminated soils shall be submitted in accordance with 40 CFR Part 761.
2. This Approval shall expire ten (10) years from the date of signature, unless extended, renewed, suspended, modified, revoked, or terminated in accordance with the conditions stated herein.
3. Application for renewal or extension of this Approval shall be made in writing at least 180 days, but not more than 270 days, prior to the expiration date. Application for renewal must include information to demonstrate that the institutional and engineered controls remain effective in mitigating risks from PCBs and that CIL (or a subsequent owner of the property subject to the terms of this Approval) has met and will continue to meet all conditions of this Approval. In reviewing the application for renewal, EPA will consider whether Site controls are effective, if additional measures are necessary to ensure no unreasonable risk to human health or the environment, and whether Approval conditions have been met. EPA may require the submission of additional information in connection with any renewal application.

<sup>2</sup> Information was submitted by Environmental Partners, LLC on behalf of CIL to support a PCB risk-based disposal approach for *PCB remediation waste* under 40 CFR §§ 761.61(c). Attachment 2 is the Administrative Record which provides a list of supporting information for the PCB risk-based disposal request. The Administrative Record will be referred to as the "Notification".

4. CIL shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
5. In the event that the activities described in the Notification differ from the conditions specified in this Approval, the conditions of this Approval shall govern.
6. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
7. CIL must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval.
8. CIL is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time CIL has or receives information indicating that CIL or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within twenty-four (24) hours of having or receiving the information.
9. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by CIL are authorized to conduct the activities set forth in the Notification. CIL is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
10. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release CIL from compliance with any applicable requirements of federal, state or local law; or 3) release CIL from liability for, or otherwise resolve, any violations of federal, state or local law.
11. Failure to comply with the Approval conditions specified herein shall constitute a violation of the requirement in § 761.50(a) to store or dispose of PCB waste in accordance with 40 CFR Part 761 Subpart D.

#### **NOTIFICATION AND CERTIFICATION CONDITIONS**

12. This Approval may be revoked if the EPA does not receive written notification from CIL of its acceptance of the conditions of this Approval within ten (10) business days of receipt.



13. Prior to initiation of work authorized under this Approval, CIL shall submit the following information for EPA review and/or approval:
  - a. a certification signed by its selected abatement contractor, stating that the contractor(s) has read and understands the Notification, and agrees to abide by the conditions specified in this Approval;
  - b. a contractor work plan, prepared and submitted by the selected abatement contractor(s) describing the means and methods of concrete removal, and the containment and air monitoring that will be employed during abatement activities. This work plan should also include information on storage, handling and disposal for **all** wastes, including but not limited to removed concrete, interior debris, walls, asbestos and painted building materials, and on decontamination of field equipment; and,
  - c. a certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the extraction and analytical method requirements and quality assurance requirements specified in the Notification and in this Approval.
14. CIL shall conduct the necessary and appropriate notification (e.g., addendum to lease agreement) on the PCB contamination to Site tenants and/or users during the leasing process. Within ten (10) days of completing the PCB remedial work described in the Notification and authorized in this Approval but prior to execution of a tenant lease agreement, whichever occurs first, a copy of the written notice shall be provided to EPA for review and comment.

#### **REMEDIAL AND DISPOSAL CONDITIONS**

15. To the maximum extent practical, engineering controls, such as barriers, and removal techniques, such as the use of HEPA ventilated tools or construction of a negative air containment system with a HEPA ventilation system to control emissions, shall be utilized during removal processes. In addition, to the maximum extent possible, disposable equipment and materials, including PPE, will be used to reduce the amount of decontamination necessary.
16. PCB-contaminated *porous surfaces* (i.e., concrete floors) shall be cleaned of debris and a minimum of one-half (½)-inch concrete shall be removed in select areas as described in the March 5, 2014 CIL Response to EPA Comments. Minimum one-inch new concrete floors (one and one-half (1 ½) inches in the removed concrete areas) shall be installed over the existing concrete floors. Following encapsulation of the PCB-contaminated *porous surfaces* with the new concrete floors, indoor air sampling shall be conducted in accordance with the monitoring and maintenance plan ("MMP") as follows:

- a. CIL shall submit a monitoring and maintenance plan ("MMP") detailing activities to be conducted to evaluate the initial and long-term effectiveness of the new concrete floors as an exposure barrier to residual PCBs in the existing concrete floors at the Site (see Condition 23). Initial indoor air sampling to document Site conditions shall be conducted prior to tenant occupancy as follows:
  - i) Indoor air sampling shall be conducted in accordance with EPA Method TO-10A or EPA Method TO-4A. Sufficient sample volumes shall be collected to provide a laboratory reporting limit of less than (" $<$ ")  $0.0043 \mu\text{g}/\text{m}^3$  (or  $4.3 \text{ ng}/\text{m}^3$ ) for total PCBs. PCB analysis shall be conducted for PCB homologues and/or PCB congeners by EPA Method 680, EPA Method 1668 or an equivalent method.
  - ii) If the indoor air sample results are  $> 0.0043 \mu\text{g}/\text{m}^3$ , CIL shall contact EPA for further discussion and direction on additional measures, if any which may be necessary at the Site.
17. PCB waste (at any concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with 40 CFR § 761.40; stored in a manner consistent with 40 CFR § 761.65; and, disposed of in accordance with 40 CFR § 761.61 or § 761.62, unless otherwise specified below.
  - a. Decontamination wastes and residues shall be disposed of in accordance with 40 CFR § 761.79(g)(6).
  - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
  - c. PCB-contaminated water generated during decontamination activities shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.60(a).

#### **DEED RESTRICTION AND USE CONDITIONS**

18. Within thirty (30) days of completing the PCB remedial work described in the Notification and authorized in this Approval, CIL shall submit for EPA review and approval, a draft deed restriction for the Site. The deed restriction shall include: a description of the extent and levels of contamination at the Site following remediation; a description of the actions taken at the Site; a description of the use restrictions for the Site, if applicable; and the long-term monitoring and maintenance requirements on the Site, which may be addressed by the long-term monitoring and maintenance plan ("MMP", see Condition 23). Within ten (10) business days of receipt of EPA's approval of the draft deed restriction, CIL shall record the deed restriction. A copy of this Approval shall be attached to the deed restriction.



**SALE, LEASE, OR TRANSFER CONDITIONS**

19. The Site owner shall notify the EPA of the sale, lease or grant of any real estate interest in the Site, in writing, no later than sixty (60) days prior to such action. This notification shall include the name, address, and telephone number of the new owner(s). In the event that the Site owner sells, leases, or grants any real estate interest affecting a portion of the Site, the Site owner shall continue to be bound by all the terms and conditions of this Approval, unless EPA allocates some or all of this Approval's responsibilities to the new owner(s), lessee or grantee. The notification procedures are as follows:
  - a. The new owner(s), lessee or grantee must request, in writing, that the EPA transfer some or all obligations and responsibilities under the Approval to the new owner(s), lessee or grantee;
  - b. The EPA reviews the request, and determines whether to allocate some or all of the obligations and responsibilities under the Approval to the new owner(s), lessee, or grantee; and,
  - c. The new owner(s), lessee or grantee provides written notification to the EPA of its acceptance of and intention to comply with the terms and conditions of the Approval or new approval, should EPA deem a new approval is necessary. The Approval or new approval may be withdrawn if the EPA does not receive written notification from the new owner(s), lessee or grantee of its acceptance of, and intention to comply with, the terms and conditions of the Approval or new approval within thirty (30) days of its receipt of the Approval or the new approval. Under such circumstances, all terms and conditions of this Approval will continue to be binding on the Site owner.
20. In the event that the sale, lease or grant of a real estate interest in the Site will involve or result in a change in the use of the Site, EPA may revoke, suspend, and/or modify this Approval or the new approval if it finds, due to the change in use, that this PCB risk-based disposal action will not be protective of health or the environment. The new owner or grantee shall record any amendment to the deed restriction, resulting from any approved modification(s), within sixty (60) days of such change(s).
21. In any sale, lease or grant of a real estate interest in the Site, the Site owner shall retain sufficient access rights to enable it to continue to meet its obligations under this Approval, except as provided above.
22. The sale, lease, or transfer conditions specified in Conditions 19 through 21 shall not apply to a tenant lease agreement pertaining to a residential apartment unit.



**INSPECTION, MODIFICATION AND REVOCATION CONDITIONS**

23. CIL shall submit for EPA's review and approval, a detailed monitoring and maintenance plan ("MMP") for the surface barriers (i.e., new concrete floors) and for indoor air. CIL shall incorporate any changes to the MMP required by EPA.
- a. The MMP shall include: a description of the activities that will be conducted, including inspection criteria, frequency, and routine maintenance activities; sampling protocols and frequency, and analytical criteria; and reporting requirements.
  - b. The MMP shall include a communications component which details how the maintenance and monitoring results will be communicated to the Site users, including building tenants, other on-site workers, and interested stakeholders.
  - c. The MMP shall include a worker training component for maintenance workers or for any person that will be conducting work that could impact the concrete floors.
  - d. CIL shall submit the results of the monitoring and maintenance activities to EPA. Based on its review of the results, EPA may determine that modification to the MMP is necessary in order to monitor and/or evaluate the effectiveness of the new concrete floors as an exposure barrier to PCBs.
  - e. Activities required under the MMP shall be conducted until such time that EPA determines, in writing, that such activities are no longer necessary.
24. Any modification(s) in the plan, specifications, and information submitted by CIL, contained in the Notification, and forming the basis upon which this Approval has been issued, must receive prior written approval from the EPA. CIL shall inform the EPA of any modification, in writing, at least ten (10) days prior to such change. No action may be taken to implement any such modification unless the EPA has approved of the modification, in writing. The EPA may request additional information in order to determine whether to approve the modification.
- If such modification involves a change in the use of the Site which results in exposures not considered in the Notification, the EPA may revoke, suspend, and/or modify this Approval upon finding that this risk-based disposal action may pose an unreasonable risk of injury to health or the environment due to the change in use. EPA may take similar action if the EPA does not receive requested information needed from CIL to make a determination regarding potential risk.
25. CIL shall record any amendment to the deed restriction, resulting from any approved change or modification(s), within sixty (60) days of such change(s). (See Condition 18).

26. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
27. Any misrepresentation or omission of any material fact in the Notification or in any future records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
28. Approval for these activities may be revoked, modified or otherwise altered if: EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761, including EPA's PCB Spill Cleanup Policy, or other applicable rules and regulations; EPA finds that the PCBs remaining at the Site present an unreasonable risk of injury to public health or the environment; EPA finds that the institutional and engineered controls are not effective in preventing PCB exposure; EPA finds that there is migration of PCBs from the Site; or EPA finds that changes are necessary to comply with new rules, standards, or guidance for such approvals. CIL may apply for appropriate modifications in the event new rules, standards, or guidance come into effect.
29. CIL shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by CIL to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.

#### **RECORDKEEPING AND REPORTING CONDITIONS**

30. CIL shall prepare and maintain all records and documents required by 40 CFR Part 761, including, but not limited to, the records required by Subparts J and K. CIL shall maintain a written record of the PCB remedial work and the analytical sampling conducted under this Approval. All records shall be made available for inspection by authorized representatives of the EPA, until such time as EPA approves in writing a request for an alternative disposition of such records.
31. As required under Condition 23 of this Approval, CIL shall submit the results of the monitoring and maintenance activities to EPA as specified in the final MMP to be approved by EPA.



32. CIL shall submit a Final Completion Report ("Report") to the EPA in both paper and electronic format within 90 days of completion of the activities described under this Approval. At a minimum, the Report shall include: a discussion of the project activities including photo-documentation; characterization and confirmation sampling analytical results; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCBs removed and disposed off-site; copies of manifests; and, copies of certificates of disposal or similar certifications issued by the disposer, as applicable. The Report shall also include a copy of the recorded deed restriction and a certification signed by a CIL official verifying that the authorized activities have been implemented in accordance with this Approval and the Notification.
33. Required submittals shall be mailed to:
- Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Mail Code: OSRR07-2  
Boston, Massachusetts 02109-3912
34. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self disclosure or penalty policies.

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**END OF ATTACHMENT 1**

## ATTACHMENT 2

**ADMINISTRATIVE RECORD  
FORMER CAPEWELL MANUFACTURING SITE  
70 POPIELUSZKO COURT  
HARTFORD, CONNECTICUT**

- *Martin Legault (CIL Development, Inc.) to Kimberly Tisa (EPA). Clarification on tenant notification and confirmation on extent of new concrete flooring. Email April 22, 2014.*
- *Martin Legault (CIL Development, Inc.) to Kimberly Tisa (EPA). Response to EPA Comments dated April 3, 2014. Email April 10, 2014.*
- *Kimberly Tisa (EPA) to Martin Legault (CIL Development, Inc.). EPA Comments on CIL Response Letter dated March 5, 2014. Email April 3, 2014.*
- *Martin Legault (CIL Development, Inc.) to Kimberly Tisa (EPA). Response to EPA Comments dated February 10, 2014. March 5, 2014.*
- *Martin Legault (CIL Development, Inc.) to Kimberly Tisa (EPA). Hazardous Material Abatement Estimated Costs dated June 25, 2013. Email February 21, 2014.*
- *Martin Legault (CIL Development, Inc.) to Kimberly Tisa (EPA). Environmental Budget dated February 20, 2014. Email February 21, 2014.*
- *Kimberly Tisa (EPA) to Martin Legault (CIL Development, Inc.). EPA Comments on December 5, 2013 PCB Risk-Based Cleanup and Disposal Request. February 10, 2014.*
- *Paul Muniz (Environmental Partners, LLC) to Kimberly Tisa (EPA). Transmittal of building material sampling. Emails February 19, 2014.*
- *Paul Muniz (Environmental Partners, LLC) to Kimberly Tisa (EPA). Transmittal of air sampling event September, October, and December 2013. Email February 19, 2014.*
- *Paul Muniz (Environmental Partners, LLC) to Kimberly Tisa (EPA). Transmittal of Site Photos and Flux Chamber. Emails January 24, 2014.*
- *Paul Muniz (Environmental Partners, LLC) to Kimberly Tisa (EPA). 40 CFR 761.61(c) Risk-Based Cleanup and Disposal Request, December 5, 2013.*